



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

April 30, 1998

MAY 1 1998

By Hand Delivery and First Class Mail

Magalie R. Salas, Secretary
Office of the Secretary
Federal Communications Commission
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

RE: CC 96-45/DA 98-683
In The Matter of Federal-State Joint Universal Service Board
Reply Comments to MCI Petition

Dear Ms. Salas:

I am filing these Reply Comments on behalf of the Pennsylvania Public Utility Commission opposing MCI's Petition in the above-referenced matter. These Reply Comments incorporate the comments of other parties to the extent they are consistent with this Reply Comment. I have attached 15 copies for distribution.

I have also enclosed an additional copy and a stamped, self-addressed envelope. Please time-stamp the additional copy and return to me in the envelope.

Sincerely,

Joseph K. Witmer,
Assistant Counsel
PaPUC Law Bureau
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CC Docket No 96-45
DA 98-683
MCI Petition
Reply Comments of the PaPUC
April 30, 1998

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

MAY 1 1998

In the Matter of)
Federal-State Joint Board)
on Universal Service)

CC Docket No. 96-45

**COMMENTS OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION
IN OPPOSITION TO THE MCI PETITION FOR DECLARATORY RULING**

I. INTRODUCTION

Pursuant to FCC Public Notice DA 98-683 released on April 10, 1998, the Pennsylvania Public Utility Commission (PaPUC) submits these Reply Comments opposing the MCI Petition for Declaratory Ruling (MCI Petition) filed on April 3, 1998. The PaPUC Reply Comments hereby incorporates the filed Comments and Reply Comments of the other parties to the extent they are consistent with this Reply Comment.

II . THE PENNSYLVANIA POSITION

1. The PaPUC supports the FCC's Universal Service Order of May 8, 1997 in CC Docket No. 96-45 on the scope of the revenue base for contributions to eligible schools, libraries, and rural health care providers in Paragraphs 837 and 838.

2. Paragraph 837 of the FCC's Universal Service Order correctly determined that the recovery of contributions for eligible schools, libraries, and rural health care providers would be recovered in their entirety from interstate mechanisms for now. Paragraph 838 of the FCC's Universal Service Order correctly determined that carrier contributions would be determined solely via the rates for interstate services because of a "heightened concern" that carriers would recover the portion of any intrastate-based contribution through increases in basic residential dialtone rates contrary to Section 254(b)(1). Paragraph 839 also determined, correctly, that this approach was equitable and that it prevented any perceived jurisdictional difficulties under Section 2(b). Paragraph 840 further determined, correctly, that the newness of the program and the absence of

extensive state experience with these initiatives supported reliance on an interstate mechanism. .

3. Neither the Comments nor the MCI Petition support reversing these well-founded determinations. The MCI Petition, which has been styled as a Petition for Declaratory Ruling even though it is far closer to Reconsideration, wants to reverse those determinations. Neither the Comments or the MCI Petition present sufficient facts or changed circumstances warranting a different result at this time.

4. Neither the Comments nor the MCI Petition support relief that could upset the jurisdictional difficulties of Section 2(b) avoided by the FCC's prior decision. The grant of the requested relief will aggravate an issue that has already divided the governments.

4. Neither the Comments nor the MCI Petition support this premature relief. The states have not yet developed the programs they will need to support these federal initiatives to the same extent that they have supported other universal service support

mechanism. Moreover, the underlying basis for the FCC's decision has not changed appreciably in the year since it was issued nor has MCI provided any evidence of appreciable change justifying relief.

5. Neither the Comments nor the MCI Petition support granting relief that would derail state efforts to develop intrastate mechanisms to support a state's universal service goals-- which typically include initiatives involving schools, libraries, and rural health. Both the supporting comments and the MCI Petition, if granted, could encourage claims that reductions in the revenue base for intrastate purposes is necessary because contributions have been made to a federal fund that addresses the matter.

6. Finally, neither the MCI Petition nor the Comments present any changed circumstances or new and relevant evidence sufficient to justify either reconsideration or a declaratory ruling. The MCI Petition simply fails to present any new and relevant

evidence that is substantially likely to affect the implementation of the Telecommunications Act of 1996 (TA-96).¹

7. The PaPUC urges the FCC to affirm the prior determinations, avoid the potential for jurisdictional division, and prevent further attempts to divide the governments' concerted efforts on behalf of schools, libraries, and rural health providers. The PaPUC urges the FCC to deny the MCI Petition.

Respectfully submitted,



Joseph K. Witmer, Assistant Counsel
Pennsylvania Public Utility Commission

Frank Wilmarth, Deputy Chief Counsel
Pennsylvania Public Utility Commission
Bohdan R. Pankiw, Chief Counsel
Pennsylvania Public Utility Commission

Dated: April 30, 1998

¹See 47 C.F.R. §1.106; W.S. Butterfield Theatres, Inc. v. Federal Communications Commission, 99 App DC 71, 237 F.2d 552 (1956); Re Armond J. Rolle, 31 FCC2d 553 (1971).

**Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**


In The Matter Of

CC 96-45

Federal-State Joint Board
on Universal Service

CERTIFICATE OF SERVICE

I, Joseph K. Witmer, hereby certify that I have on this 30th of April 1998, served a true and correct copy of the Reply Comments of the Pennsylvania Public Utility Commission (PaPUC) upon the persons and in the manner indicated below:


Joseph K. Witmer
Assistant Counsel
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April 30, 1998 by Overnight Express:

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